

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

CRP.No. 413 of 2004()

**AGAINST THE ORDER DATED 13/02/2004 IN IA. 1181 /2000 IN
OS.59/2000 of SUB COURT, PALA**
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REVN. PETITIONER: PETITIONER/APPELLANT.

**LALILA JACOB, THAYYIL, ERUMAPRA KARA,
MELUKAVU VILLAGE, KOTTAYAM DISTRICT.**

BY ADV. SRI.JOSEPH SEBASTIAN PURAYIDAM

RESPONDENTS: PLAINTIFF/2ND RESPONDENT.

**1. BINOY THOMAS, CHENAGAZHASSERIYIL,
TEEKOY KARA, TEEKOY VILLAGE.**

**2. CHACKO, THAYYIL, THIDANADU KARA,
KONDOOR VILLAGE.
(DIED) LEGAL REP. IMPEADED.**

ADDL. 3RD RESPONDENT IMPEADED:

**JACOB T.C., S/O CHACKO, THAYYIL HOUSE,
ERUMAPRA KARA, MELUKAVU VILLAGE,
MEENACHIL TALUK.**

**ADDL. 3RD RESPONDENT IS IMPEADED AS HE LEGAL REP. OF THE
DECEASED 2ND RESPONDENT VIDE ORDER DTD.3.6.04 INI.A.1586/04.**

**R1 BY ADV. SRI.M.NARENDRA KUMAR
R3 BY SRI.WILSON URMESE**

**THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 10/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

**ORDER ON I.A. 1261 OF 2004
IN
Tr.P.C. NO.413 OF 2004**

DISMISSED

10/7/07

SD/- M.N. KRISHNAN, JUDGE.

[True Copy]

P.A. TO JUDGE.

M.N. KRISHNAN, J.
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C.R.P. NO. 413 OF 2004
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Dated this the 10th day of July, 2007.

ORDER

This civil revision petition is preferred against the order of the Sub Judge, Pala in I.A.1181/00 in O.S.59/00. The plaintiff Binoy Thomas filed a suit against one Jacob, S/o of Chacko for realisation of an amount with charge on the property. Thereafter, the wife of Mr.Jacob namely Laila Jacob filed a petition to appoint her as the guardian of the defendant alleging that he is mentally incapable of defending himself in the case. In support of her contentions she had examined PWs.1 and 2 who are doctors. PW1 is a doctor, who had treated Mr. Jacob during the period 1997 and he had deposed that Jacob was suffering from depression psychos and it is a curable one. PW2, Dr.N.D. Mohanan who had issued Ext.A2 certificate would depose that it is a depression disorder and at the time of examination by him in November, 2000, he was unable to maintain himself. The Court, thereafter, procured the presence of this Jacob and examined him as contemplated under Order 32 Rule 15 of CPC by putting questions to him to find out whether he is in

a position to defend his case. The learned Sub judge had recorded in the order that he has put a lot of questions to him for which Mr. Jacob was in a position to give cogent answers and the learned Sub Judge even opined that he was able to remember names of his friends who were studying with him at 8th standard. So, on a total appreciation of the answers given by him, the Court below found that he is a person who is mentally fit on the date of examination and therefore he is able to defend himself. Therefore, the application to appoint the wife as guardian had been rejected. I do not find any infirmity in the said order and therefore the order of the Sub Judge does not require interference. But, since the person involved has a previous history of mental illness if at any stage the Court feels that he cannot represent himself it is for the Court to decide whether a guardian has to be appointed under such circumstances.

With this observation the C.R.P. is disposed of.

M.N. KRISHNAN, JUDGE.

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